

Service Date: September 5, 1979

AMENDED ORDER NO. 4497a

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION

IN THE MATTER of the Public)	
Utility Status of BURLINGTON)	DOCKET NO. 6533
NORTHERN, INC. as Regards)	
Water Service to the Nutting)	ORDER NO. 4497 a b
II Subdivision, Laurel,)	
Montana.)	

The Commission, having taken evidence, made its own investigation, and being fully advised in the premises, makes the following findings, conclusions and order:

FINDINGS OF FACT

1. By Order No. 4497, Service Date March 29, 1979, Burlington Northern, Inc. (BN, Railroad), home office St. Paul, Minnesota, was adjudged a public water utility under the provisions of 69-3-101, MCA, and ordered to file a schedule of its rates and charges.

2. Subsequently, both the railroad and the City of Laurel filed Petitions requesting permission for the City of Laurel to assume the responsibility for providing water service to the area involved referred to in Order No. 4497 and requesting that Order No. 4497 be vacated. These Petitions were based on an agreement reached by the City and the railroad June 26, 1979 which transferred the water lines in question from the railroad to the City.

3. In order to assure itself that all customers of the BN were protected, the Commission procured a Stipulation from the BN, the City of Laurel, and the Montana Consumer Counsel. This Stipulation stated in part:

...all customers currently receiving water through facilities of the Burlington Northern, Inc. will continue to receive water, either from the Burlington Northern, Inc. under private lease agreements, or from the City of Laurel water utility.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding.

2. The Commission afforded all parties interested in this proceeding proper notice and an opportunity to participate.

3. Having transferred to the City of Laurel, Montana, the plant and equipment with which it provided water service to residents of the Nutting II Subdivision, Petitioner Burlington Northern, Inc., is no longer a public water utility and its request that Order No. 4497 be vacated is reasonable and just.

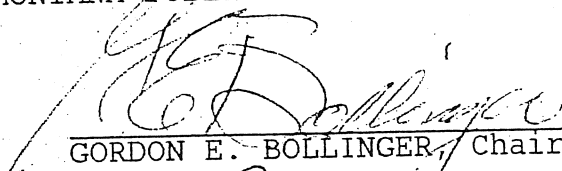
ORDER

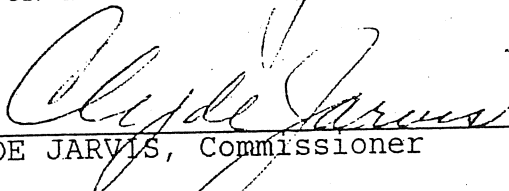
IT IS ORDERED by the Montana Public Service Commission that the Agreement signed June 26, 1979, between Petitioners Burlington Northern, Inc. and the City of Laurel, Montana, is hereby ACCEPTED, Petitioner Burlington Northern, Inc. is adjudged not to be a public water utility under Montana law, and Montana Public Service Commission Order No. 4497, Service Date March 29, 1979, is VACATED.

IT IS FURTHER ORDERED that a copy of this Order shall be sent by certified mail to the Petitioner, and by first-class mail to all other parties of record.

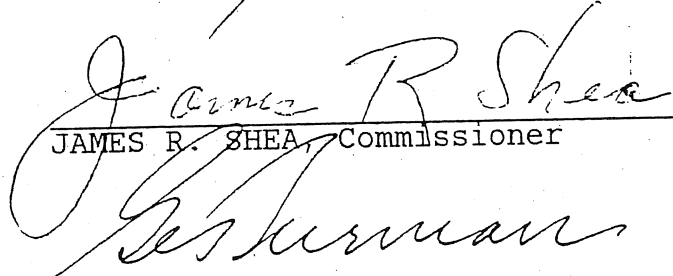
DONE IN OPEN SESSION this 4th day of September, 1979, by a vote of 5-0.

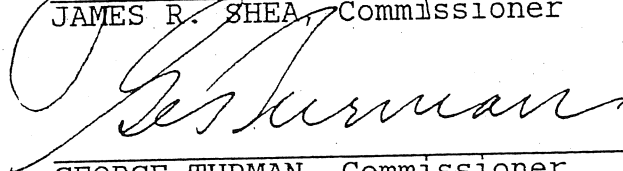
BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.


GORDON E. BOLLINGER, Chairman

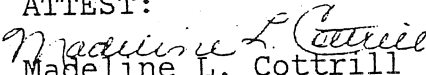

CLYDE JARVIS, Commissioner


THOMAS J. SCHNEIDER, Commissioner


JAMES R. SHEA, Commissioner


GEORGE TURMAN, Commissioner

ATTEST:


Madeline L. Cottrill
Secretary

(SEAL)

NOTE:

You are entitled to judicial review of the final decision in this matter. If no Motion for Reconsideration is filed, judicial review may be obtained by filing a petition for review within thirty (30) days from the service of this order. If a Motion for Reconsideration is filed, a Commission order is final for purpose of appeal upon the entry of a ruling on that motion, or upon the passage of ten (10) days following the filing of that motion. cf. the Montana Administrative Procedure Act, esp. Sec. 2-4-702, MCA; and Commission Rules of Practice and Procedure, esp. 38-2.2(64)-P2750, ARM.